IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Second Appeal No. 691/2006

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : A..P. Lavande, J
DATE : 20.3.2007

Heard Shri Marathe, learned counsel for the appellant.

2. By this appeal, the appellant takes exception to the Judgment and decree dated 29th November, 2005 passed by the 3rd Ad hoc Additional District Judge, Wardha in Regular Civil Appeal No. 83/03 dismissing the appeal filed by the appellant against the Judgment and decree dated 3rd May, 2003 passed by the Civil Judge, Jr. Dn., Ashti in Regular Civil Suit No. 14/97.

3. The appellant is the original plaintiff who filed the above suit for ejectment and arrears of rent against the respondent/defendant.

4. According to the plaintiff, he purchased the suit property bearing Survey No. 6 having area of 0.55 R at mouza Kakaddhara from Pandurang and Vithal Mahadik vide registered sale-deed dated 08.08.1991, out of which an area of 35 x 33 ft. was in possession of the defendant on monthly tenancy of Rs. 50/-. The suit was filed on the ground that the tenancy of the defendant was terminated by giving notice under Section 106 of the Transfer of Property Act. The defendant contested the claim. The trial Court after appreciating the evidence led by the parties held that the plaintiff had not proved his title to the suit plot inasmuch as the plaintiff had not proved the contents of the sale-deed (Exh. 50). The trial Court also held that the plaintiff had failed to prove that the defendant was a tenant in respect of the suit premises. The lower appellate court also concurred with the findings given by the trial court.

Mr. Marathe, learned counsel for the plaintiff submitted that the finding of the trial court which has been confirmed by the lower appellate court that the plaintiff is not the owner of the suit property is perverse. According to

the learned counsel, the plaintiff had produced copy of the registered sale-deed (Exh.50) and also notice (Exh.72) issued by the Tahsildar to the defendant which clearly establish the title of the plaintiff to the suit property. He further submitted that the finding given by the appellate court that the plaintiff had not proved his title is illegal and perverse.

5. Having perused the records and having considered the submissions made by the learned counsel for the appellant, I do not find any merit in the present appeal. Admittedly, the plaintiff did not enter the witness box. He examined P.W. 2 Ramesh Kadam who was the attesting witness to the sale-deed. The evidence of P.W.2 Ramesh only establishes the execution of the sale-deed but not its contents. The trial Court is right in holding that mere production of the copy of a registered sale-deed is not sufficient to prove its contents. This finding recorded by the trial court and confirmed by the lower appellate court cannot be faulted. Once the plaintiff fails to prove his title on the

basis of the sale-deed the question of granting any relief against the defendant does not arise at all. Therefore, the Judgments passed by both the courts below cannot be faulted. In any case, no substantial question of law is involved in the present appeal. Hence, the appeal is summarily rejected.

Judge

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